

**Filed 6/4/02 by Clerk of Supreme Court  
IN THE SUPREME COURT  
STATE OF NORTH DAKOTA**

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2002 ND 91

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State of North Dakota,

Plaintiff and Appellee

v.

Jonathon Ray Moore  
a/k/a Jonathan Ray Moore,

Defendant and Appellant

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No. 20010255

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Appeal from the District Court of Morton County, South Central Judicial District, the Honorable Donald L. Jorgensen, Judge.

AFFIRMED.

Per Curiam.

Ladd R. Erickson, Assistant State's Attorney, 210 2nd Avenue Northwest, Mandan, N.D. 58554, for plaintiff and appellee.

Paul Henry Myerchin, P.O. Box 995, Bismarck, N.D. 58502-0995, for defendant and appellant.

Chad R. McCabe, Vinje Law Firm, 523 North 4th Street, Bismarck, N.D. 58501-4055, for amicus curiae National Association of Criminal Defense Lawyers.

**State v. Moore**

**No. 20010255**

**Per Curiam.**

[¶1] Jonathon Ray Moore appealed from a criminal judgment entered on jury verdicts finding him guilty of theft of property, fleeing or attempting to elude a police officer, and reckless driving. We conclude the trial court did not abuse its discretion in ordering a joint trial of Moore and his brother or in admitting in evidence photographs of his fingerprints. Moore's unsuccessful motion in limine to exclude fingerprint evidence under the standards articulated in Daubert v. Merrell Dow Pharm., Inc., 509 U.S. 579 (1993) and Kumho Tire Co. v. Carmichael, 526 U.S. 137 (1999), was untimely, and by failing to object to admission of the evidence at trial, Moore failed to preserve the issue for appellate review. See State v. Entzi, 2000 ND 148, ¶¶ 16, 20, 615 N.W.2d 145. We affirm the judgment under N.D.R.App.P. 35.1(a)(4).

[¶2] Gerald W. VandeWalle, C.J.  
Dale V. Sandstrom  
William A. Neumann  
Mary Muehlen Maring  
Carol Ronning Kapsner